

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- against -

20-cr-109-1 (JGK)

MARVIN GAMONEDA,

ORDER

Defendant.

JOHN G. KOELTL, District Judge:

By pro se letters received January 12, 2021 and January 25, 2021, the defendant, Marvin Gamoneda, has renewed his application for release pending trial. The defendant argues primarily that by being detained at the MCC he is at risk of contracting COVID-19 and that the conditions at the MCC are harsh and restrictive. The Government points out that the defendant has failed to satisfy the requirement for reopening the detention hearing because the defendant has failed to satisfy the requirement of 18 U.S.C. § 3142(f) to show that "information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue whether there are conditions of release that will reasonably assure the appearance of [the defendant] as required and the safety of the community." Indeed, the defendant has made the same arguments as to the danger of COVID-19 and the restrictive conditions at the MCC that were made and found insufficient at

the previous hearing. That would be a sufficient reason to deny the pending application.

In any event, there is no basis for release. At the previous hearing on April 10, 2020, the Court listened to the parties and concluded that the Government had shown by clear and convincing evidence that there is no condition or combination of conditions that will reasonably assure the presence of the defendant and the safety of the community. See Tr. 26:19-25, ECF No. 30. The Court analyzed the serious nature of the charges including attempted murder, the strength of the evidence, the substantial potential penalties including a substantial mandatory minimum sentence, and the history of the defendant. The Court also analyzed the potential relief package and found it insufficient. The defendant has not contravened any of these considerations in the current applications.

While the defendant has relied again on the existence of COVID-19, the Government reports that there is only one current MCC inmate who has tested positive for COVID-19 and the defendant himself asserts that he has been tested 5 times for COVID-19 and tested negative each time. There is no reason to believe that the defendant is at a heightened risk of being infected by that disease or suffering severe consequences from the disease. While the restrictions at the MCC enacted to protect the staff and inmates are severe, they do not justify

the defendant's release. Indeed, the defendant has made it clear in his applications that he is receiving medical treatment for various conditions.

For the reasons explained above and in the original decision on April 10, 2020, the defendant's application for release pending trial is denied.

SO ORDERED.

**Dated: New York, New York
February 8, 2021**

**/s/ John G. Koeltl
John G. Koeltl
United States District Judge**